

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC**

In the Matter of	)	
	)	
Competitive Bidding Procedures and Certain	)	AU Docket No. 20-34
Program Requirements for the Rural Digital	)	
Opportunity Fund Auction	)	
	)	
Rural Digital Opportunity Fund	)	WC Docket No. 19-126
	)	
Connect America Fund	)	WC Docket No. 10-90

**REPLY COMMENTS OF THE FIBER BROADBAND ASSOCIATION**

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**I. INTRODUCTION AND SUMMARY**

The Fiber Broadband Association (“FBA” or the “Association”) hereby submits these reply comments in response to initial comments regarding the Rural Digital Opportunity Fund (“RDOF”) auction competitive bidding procedures proposed by the Federal Communications Commission (“FCC” or “Commission”) in the *RDOF Auction Notice*.<sup>1</sup> The record supports FBA’s proposal in its initial comments<sup>2</sup> that the Commission should use its predictive judgment to prohibit low-earth orbit (“LEO”) satellite system providers from bidding in the Gigabit and Above Baseline service tiers. The Commission also should adopt its proposal to prohibit fixed wireless providers, with limited exception, from bidding in the Gigabit tier because their operational networks are not capable of meeting the Commission’s first deployment milestone for that level

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<sup>1</sup> Federal Communications Commission, Public Notice, “Comment Sought on Competitive Bidding Procedures and Certain Program Requirements for the Rural Digital Opportunity Fund Auction (Auction 904),” AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90 (“RDOF Auction Notice”).

<sup>2</sup> Comments of the Fiber Broadband Association, AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90 (March 27, 2020) (“FBA Comments”).

of performance. Additionally, the record reflects a consensus that the Commission should adopt census block groups as the minimum geographic bidding area.

## **II. THE RECORD SUPPORTS THE COMMISSION USING ITS PREDICTIVE JUDGMENT TO PROHIBIT LEO SYSTEM PROVIDERS FROM BIDDING IN HIGHER SPEED PERFORMANCE TIERS**

The record reflects broad opposition to allowing LEO system providers to bid in the Gigabit and Above Baseline performance tiers.<sup>3</sup> As several commenters explained, in general, the *RDOF Auction Notice* creates a framework based on Form 477 data that “preclude[s] technologies of all kinds and without distinction or discrimination – wireline and wireless, terrestrial and satellite – from bidding in tiers where there is no basis whatsoever to conclude that a commercial offering is yet viable for that particular technology.”<sup>4</sup> Under this framework, LEO satellite technology would, at the very least, be prohibited from bidding in the Above Baseline and Gigabit performance tiers because as many commenters echoed, “low-earth-orbit satellite services have *never* provided *any* service to *any* customers in *any* of the performance tiers proposed for Auction

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<sup>3</sup> See RDOF Auction Notice ¶ 49. See also, e.g., Comments of ADTRAN, Inc. (“ADTRAN”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 2-5 (Mar. 27, 2020); Comments of Conexon, LLC (“Conexon”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 1-2 (Mar. 27, 2020); Comments of California Internet, L.P. DBA GeoLinks (“GeoLinks”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 2-3 (Mar. 27, 2020); Comments of Gibson Electric Membership Corporation (“Gibson EMC”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 3 (Mar. 27, 2020); Comments of Hughes Network Systems, LLC (“Hughes”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 3-4 (Mar. 27, 2020); Comments of National Rural Electric Cooperative Association (“NRECA”) and the Utilities Technology Council (“UTC”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 3-4 (Mar. 27, 2020); Comments of NTCA–The Rural Broadband Association (“NTCA”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 8-9 (Mar. 27, 2020); Comments of Tennessee Electric Cooperative Association (“TECA”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 3-4 (Mar. 27, 2020); Comments of USTelecom – The Broadband Association (“USTelecom”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 2 (Mar. 27, 2020); Comments of WTA – Advocates for Rural Broadband (“WTA”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 8 (Mar. 27, 2020).

<sup>4</sup> See Comments of NTCA at 9.

904,”<sup>5</sup> and no satellite service has yet demonstrated that those performance metrics can be achieved. Instead of applying this framework neutrally,<sup>6</sup> however, the Commission has left open the possibility that it would create a special exception based on unsubstantiated assertions of LEO providers about the capabilities of their services. Yet, as ADTRAN rightly points out, “[t]he absence of any fully-deployed systems means the Commission has no idea how these systems will actually perform when eventually launched and providing service.”<sup>7</sup> Consistent with the record, the Commission should refrain from providing special treatment for LEO services and decline to permit RDOF applicants “to select performance tiers ...that their proposed technologies have not yet demonstrated the capability to provide.”<sup>8</sup>

Only Space Exploration Technologies Corp. (“SpaceX”) and Telesat Canada (“Telesat”) advocated that the Commission adopt its proposal to allow LEO providers to bid in higher performance tiers, but neither entity submitted demonstrable evidence that they will actually be able to operate commercial broadband systems that can achieve the performance requirements of those tiers.<sup>9</sup> Instead, both aver that their satellite technology will ostensibly allow them to deliver

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<sup>5</sup> Comments of Hughes at 3-4 (all emphasis in original).

<sup>6</sup> See Comments of USTelecom at 4 (“Without reliance on strong evidence of operational ability to provide the service as defined by the Commission the auction cannot be truly technologically or competitively neutral.”).

<sup>7</sup> Comments of ADTRAN at 4.

<sup>8</sup> Comments of WTA at 8.

<sup>9</sup> SpaceX only pointed again to the one brief article describing limited testing of internet service with the U.S. Air Force that says nothing about latency and is simply not comparable to real-world commercial distribution of broadband service. Comments of Space Exploration Technologies Corp. (“SpaceX”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at n.12 (Mar. 27, 2020).

increased throughput but without any substantiation.<sup>10</sup> Thus, the Commission has no basis to rely on their claims that their technology will allow for increased throughput.

SpaceX and Telesat also fail to provide evidence that they will be able to meet the deployment deadlines for RDOF recipients. SpaceX claims that it will begin offering its Starlink broadband service for consumers in the United States and Canada by the end of 2020,<sup>11</sup> but “technology development and its commercial application generally take significantly longer than anticipated, and often require additional periods of adjustment and modification to find and resolve or repair initial problems and defects.”<sup>12</sup> Indeed, Conexon spells out the heavy lift that would be required of SpaceX to meet the RDOF deployment schedule<sup>13</sup> and ADTRAN notes how other attempts at deploying mega-constellation systems have failed.<sup>14</sup> There is simply no evidence that LEO providers will be able to meet deployment requirements.<sup>15</sup> Allowing them the opportunity to try represents “a risky bet that could affect many rural consumers who have waited too long already for broadband and whose broadband future hangs in the balance.”<sup>16</sup>

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<sup>10</sup> *Id.* at 7-8; Comments of Telesat Canada (“Telesat”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 2, 3 (Mar. 27, 2020).

<sup>11</sup> Comments of SpaceX at 4.

<sup>12</sup> Comments of WTA at 8.

<sup>13</sup> Comments of Conexon at 4-5.

<sup>14</sup> Comments of ADTRAN at 3, nn.6-7.

<sup>15</sup> In fact, to ensure accountability by all bidders, the Association supports the Commission’s “proposals to require all applicants to submit a certification from a professional engineer regarding each bidder’s ability to achieve 95% of the buildout required for the area(s) won and to assume at least a subscription ratio of 70% for both voice and broadband services in architecting its network.” *See* Comments of NTCA at 14; *see also* RDOF Auction Notice ¶¶ 37-38.

<sup>16</sup> Comments of NTCA at 13.

The Commission should not reward the LEO providers' unsubstantiated claims with a special exception to bid in the Above Baseline and Gigabit performance tiers.<sup>17</sup> Instead, the Commission should, as FBA discussed in its initial comments, protect against default, preserve auction integrity, and encourage auction participation by using its predictive judgment to decline to allow LEO providers to bid at higher performance tiers and speeds and abandon its plan to use a case-by-case review of such unproven nascent technologies, which would undermine transparency and accountability, as proposed by the Association in its initial comments.

### **III. THE COMMISSION SHOULD PROHIBIT FIXED WIRELESS PROVIDERS FROM BIDDING AT THE GIGABIT TIER UNLESS THEY CURRENTLY PROVIDE SUCH SERVICE**

The Association supports the Commission's proposal to preclude fixed wireless providers from bidding in the Gigabit tier unless the provider can show, as evidenced in an FCC Form 477 filing, that the provider has provided such service.<sup>18</sup> The Commission's proposed adoption of this conclusion is based on a well-founded metric -- that is, whether a provider using a technology could "offer Gigabit speeds by the first service milestone."<sup>19</sup> This benchmark will preserve the integrity of the RDOF program by ensuring that a recipient of support will actually meet the RDOF performance obligations. The Commission's conclusion is further based on evidence that almost no fixed wireless provider has offered gigabit broadband speeds and that none had qualified in the Gigabit tier during the Connect America Phase II auction. As a result of "the continued lack of

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<sup>17</sup> FBA opposes Viasat's proposal that SpaceX be permitted to bid only for 10% of the eligible locations because there is no reason to permit an applicant to bid anywhere without providing evidence of the capabilities of an operational network and because the 10% limit is arbitrary. Comments of Viasat, Inc. AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90 at 3 (Mar. 27, 2020) ("Viasat").

<sup>18</sup> RDOF Auction Notice, ¶ 51.

<sup>19</sup> RDOF Auction Notice, ¶ 51.

widespread reported [fixed wireless] deployment at higher speeds,” the Commission concludes it would be “unreasonable to expect that an applicant choosing to use ...fixed wireless ... would be able to offer Gigabit speeds...unless it has a reported history of offering such speeds.”<sup>20</sup>

A group of fixed wireless providers filed comments opposing the Commission’s conclusion and proposal.<sup>21</sup> They argue that with access to additional spectrum bands and the development of new technologies, they can provide service at gigabit speeds.<sup>22</sup> These comments are replete with statements regarding fixed wireless “*trials*” that eventually may result in technology expected to be “rolled out quickly”<sup>23</sup> and statements about fixed wireless providers that “are *capable of offering* Gigabit service” or that have “*announced plans to offer* fixed wireless Gigabit service.”<sup>24</sup> But, at their root, these claims are merely speculative, and the stakes for unserved consumers and businesses in the RDOF are too great for the Commission to rely on untested assumptions about how a technology might actually perform in the field by a certain date. A letter to FCC Chairman Pai from U.S. Senators John Thune (R-S.D.), Amy Klobuchar (D-Minn.), and almost four dozen other Senators went straight to the core of the problem resulting

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<sup>20</sup> RDOF Auction Notice, ¶ 51.

<sup>21</sup> See SIKLU Communications Ltd. (“SIKLU”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 1-2 (Mar. 27, 2020); Comments of W.A.T.C.H. TV Company (“W.A.T.C.H.”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 3 (Mar. 27, 2020); Comments of Wireless Internet Service Providers Association (“WISPA”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 8-15 (Mar. 27, 2020). See also, e.g., Comments of Cambium Networks, Ltd. (“Cambium”), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 4-5 (Mar. 27, 2020) (fixed wireless equipment manufacturer).

<sup>22</sup> Comments of NTCH, Inc. and Flat Wireless, LLC (“NTCH/Flat Wireless”), AU Dkt. 20-34, WC Dkt. No. 19-126, WC Dkt. No. 10-90, at 6-7 (filed Mar. 27, 2020); Comments of SIKLU at 1-2; Comments of W.A.T.C.H. at 2-3; Comments of WISPA at 10-14.

<sup>23</sup> Comments of Cambium at 5 (emphasis added).

<sup>24</sup> Comments of WISPA at 13-14.



from RDOF funds being distributed to entities incapable of providing the bid-upon services: “[i]f a party is incapable of delivering broadband as promised, the American ratepayer loses twice over – first for having contributed sums that did not go toward the deployment of broadband as hoped, and then again as those ratepayers who reside in the area that ended up not receiving the promised service.”<sup>25</sup>

In its initial comments, the Association proposed that the Commission adopt an evidence-based approach to decide whether applicants using nascent technologies should be permitted to bid on certain performance tiers, and it urged the Commission to address this matter upfront, before short-form applications are filed, so as not to undermine the transparency and integrity of the auction process. On this basis, as discussed above, the Association submitted that the Commission should use its predictive judgment to prohibit LEO providers from bidding for higher performance tiers, and the Association’s proposed approach and conclusion received widespread support in the initial comments. The same rationale applies equally to addressing how to treat applicants using fixed wireless technologies. The Commission should preclude them, with limited exception, from bidding for the Gigabit tier because they have not demonstrated – through viable, commercial operations – an ability to provide services meeting requirements of that tier.<sup>26</sup>

By contrast to mere assertions that fixed wireless providers make about the potential for their technology, the Commission’s proposed “prohibition” is based on actual operational

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<sup>25</sup> Letter to Chairman Ajit Pai, Federal Communications Commission, from Sen. John Thune (R-S.D.), Sen. Amy Klobuchar (D-Minn.), United States Congress (Dec. 9, 2019) at <https://www.klobuchar.senate.gov/public/index.cfm/2019/12/klobuchar-thune-46-colleagues-urge-federal-communications-commission-fcc-to-promote-the-deployment-of-sustainable-broadband-networks-in-rural-america>.

<sup>26</sup> See FBA Comments at 3-11.

evidence. Moreover, should the Commission be tempted to reconsider its proposal, it should weigh a variety of “in the field” factors, such as network performance in oversubscription scenarios and practical geographical impediments requiring network modifications.<sup>27</sup> For instance, performing an oversubscription analysis would enable the Commission to confirm that the provider can meet the needs of the likely number of subscribers utilizing the service at a single time including peak times. NTCA, in its comments, recommended that a provider “assume at least a subscription ratio of 70% for both voice and broadband services” and that the Commission “should make clear that [assertions of network performance] must be premised upon a reasonable oversubscription ratio or busy hour overload (BHOL) factor.”<sup>28</sup> WTA recommended the subscription rate be set to a higher 100% to show that “the RDOF-supported network can readily and rapidly serve all customer locations within its service area at its proposed speed and latency levels if they want or need service.”<sup>29</sup> The North Dakota Joint Commenters similarly explained the importance of addressing oversubscription assessments and highlighted the effect of geographical limitations that fixed wireless providers must consider.<sup>30</sup> For example, considerations relevant to shelterbelt landscaping prevalent in some rural areas can range from line of sight obstacles that prevent

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<sup>27</sup> See Comments of NTCA at 15-17; Comments of WTA at 5. See also, e.g., Comments of Conexon at 5 (noting that most bidder’s “standards and engineering assumptions are generally know” but questions remain about SpaceX’s Starlink: “What is Starlink’s planned oversubscription ratio?”); Comments of USTelecom at 8-9 (proposing lowering the assumed subscription rate).

<sup>28</sup> Comments of NTCA at 15.

<sup>29</sup> Comments of WTA at 5.

<sup>30</sup> Letter to Marlene H. Dortch, Federal Communications Commission from Derrick Bulawa, BEK Communications WC Dkt. No. 19-126, WC Dkt. No. 10-90 (Jan. 23, 2020) (“NDJC Ex Parte”) (submitting the ex parte presentation of the North Dakota Joint Commenters. While technically not comments, the NDJC Ex Parte presentation provides a thorough and reasoned analysis of high-speed broadband deployment challenges applicable to fixed wireless technologies).

necessary equipment alignment to possible service degradation triggered by the mere regrowth of foliage on shelterbelt trees.<sup>31</sup> In sum, if the Commission decides to rethink its proposed prohibition on fixed wireless providers bidding for the Gigabit tier, it should require that those providers demonstrate, through thorough engineering assessments using realistic operational models accounting for factors such as oversubscription and any relevant geographical obstacles applicable to the specific service area, that they, as a rule, will be able to provide service meeting the performance obligations.

Other commenters support the Commission’s proposed prohibition on permitting, with limited exception, fixed wireless providers to bid on the Gigabit tier.<sup>32</sup> NTCA commented that the Commission’s preclusion proposal “was more than well-founded” as it would have precluded “bidding in tiers where there is no basis whatsoever to conclude that a commercial offering is yet viable for that particular technology.”<sup>33</sup> Reaching a similar conclusion, USTelecom declared in its comments that “the Commission should not entertain the applications of potential bidders who have not been able to prove that they can meet the service obligations incumbent upon any auction winner.”<sup>34</sup> Even, GeoLinks, a fixed wireless provider, recognized the importance of actual service experience, urging the Commission to prohibit bidding by service providers that have not filed a Form 477, asserting that “[o]nly service providers with a track record for providing broadband

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<sup>31</sup> NDJC Ex Parte at 12-15, 21-22. *See also, e.g.*, Comments of NRECA and UTC at 4 (noting that “5G systems operating on millimeter wave frequency assignments are distance constrained”); NTCA Comments at 5 (potential bidders should show service capability “in the face of terrain, distance, and other relevant factors”).

<sup>32</sup> *See, e.g.*, Joint Comments of NRECA/UTC at 4 (agreeing with the Commission’s proposal to preclude bidding by fixed wireless and DSL providers); Comments of NTCA at 8-9 (stating the Commission’s bidding preclusion proposal was “more than well-founded”).

<sup>33</sup> Comments of NTCA at 9. *See also, e.g.*, Comments of NRECA and UTC at 4.

<sup>34</sup> Comments of USTelecom at 5.

service . . . understand the rigors” of providing service and recommending that “limiting participation [at the Above Baseline and Gigabit tiers] to only providers who have previously filed Form 477s will protect RDOF funding and save Commission resources by weeding out companies that may not be able to meet the rigors of the long form application process before they take part in the auction.”<sup>35</sup>

Finally, the issues the Commission is considering and the decisions it will make regarding how RDOF support will be distributed to ensure unserved populations obtain access to proven broadband services are critical. Current events illustrate, with absolute certainty, that reliable, high performance – fiber-based to the maximum extent – broadband service is more necessary now than ever before. Millions of students in communities across the nation must have access to reliable broadband service with symmetric video capabilities, or risk falling behind their peers, as schools transition to online teaching.<sup>36</sup> Patients and medical providers, in both rural and urban areas, look to telemedicine, which relies on consistent and available broadband for video meetings, as an alternative to office visits that are no longer, or perhaps never were, convenient.<sup>37</sup> And millions of employees are now working remotely – relying on fast, consistent broadband service to continue their business operations as States caution against unnecessary travel.<sup>38</sup> These demanding

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<sup>35</sup> Comments of GeoLinks at 3.

<sup>36</sup> See, e.g., “As Schools Close Amid Coronavirus Concerns, the Digital Divide Leaves Some Students Behind”, Time, at <https://time.com/5803355/school-closures-coronavirus-internet-access/> (Mar. 15, 2020).

<sup>37</sup> See, e.g., “Surge in patients overwhelms telehealth services amid coronavirus pandemic”, Stat at <https://www.statnews.com/2020/03/17/telehealth-services-overwhelmed-amid-coronavirus-pandemic/> (March 17, 2020).

<sup>38</sup> See, e.g., “The Coronavirus Is Creating a Huge, Stressful Experiment in Working From Home”, The Atlantic at <https://www.theatlantic.com/ideas/archive/2020/03/coronavirus-creating-huge-stressful-experiment-working-home/607945/> (March 13, 2020).

applications have caused traffic surges, in both directions, as users not only seek to download Internet content, typically for entertainment purposes, but now also to upload information, including school assignments and work-related information. As a result, a premium must be placed on the government supporting all-fiber networks and those with similar symmetrical high performance capabilities, which we are confident will meet today's and tomorrow's consumer, commercial, and institutional demands. By contrast, we should not rely on networks that "will require regular upgrade or replacement of CPE with equipment that is more sophisticated, complex and expensive."<sup>39</sup> As the *NDJC Ex Parte* details, fixed wireless technology that almost assuredly will need to be replaced by fiber to meet growing consumer demand and to maintain service speeds, led the NDJC to conclude that "[w]hen costs truly are viewed prudently, - *i.e.*, over the course of RDOF support and beyond – fiber from the start is the far more prudent use of 'scarce taxpayer dollars'."<sup>40</sup>

In sum, in light of the critical need for proven, broadband offerings, until fixed wireless providers can demonstrate they have operational networks actually providing Gigabit services, these theoretical claims of what fixed wireless technology might or could do at some point in the future are mere speculation that do not warrant revising the Commission's proposed Gigabit tier bidding preclusion for fixed wireless services.

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<sup>39</sup> NDJC Ex Parte at 34.

<sup>40</sup> NDJC Ex Parte at 45. *See also id.* at 42-46.

#### **IV. THE RECORD REFLECTS NEARLY UNANIMOUS SUPPORT THAT THE MINIMUM GEOGRAPHIC BIDDING AREA SHOULD BE THE CENSUS BLOCK GROUP**

All but two commenters<sup>41</sup> that addressed the Commission's inquiry regarding the minimum geographic bidding area chose census block groups over census tracts.<sup>42</sup> Commenters generally offered the same reasons FBA put forth in its initial comments, including that greater flexibility to develop targeted bids will result in more participation of both large and small providers, which will increase competition.<sup>43</sup> Conversely, large census tracts will increase the likelihood that providers will find it uneconomic to build, thereby reducing participation and competition in the auction.<sup>44</sup> Additionally, the general consensus among these commenters is that the Commission's concerns about the manageability of bidding on the larger number of census block groups is unwarranted and that any administrative efficiencies the Commission might achieve by auctioning

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<sup>41</sup> Comments of Hughes at 6; Comments of Viasat at 14.

<sup>42</sup> Comments of ACA Connects – America's Communications Association ("ACA Connects"), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90 (Mar. 27, 2020); Comments of AT&T Services, Inc. ("AT&T"), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 2 (Mar. 27, 2020); Comments of Frontier Communications Corporation ("Frontier"), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 5-6 (Mar. 27, 2020); Comments of Gibson EMC at 3; Comments of NCTA — The Internet & Television Association ("NCTA"), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 2 (Mar. 27, 2020); Comments of NTCA at 2; Comments of NRECA and UTC at 4-5; Comments of Smith Bagley, Inc. ("SBI"), AU Dkt. No. 20-34, WC Dkt. Nos. 19-126, 10-90, at 2-3 (Mar. 27, 2020); Comments of TECA at 4; Comments of USTelecom at 6; Comments of WISPA at 4-5; Comments of WTA at 2.

<sup>43</sup> Comments of ACA Connects at 2; Comments of AT&T at 3; Comments of Frontier at 5-6; Comments of NCTA at 2; Comments of NTCA at 2; Comments of SBI at 3-4; Comments of USTelecom at 6; Comments of WISPA at 4; Comments of WTA at 2.

<sup>44</sup> Comments of ACA Connects at 5; Comments of SBI at 3-4; Comments of WISPA at 4.

the fewer number of census tracts would be outweighed by reductions in participation and competition in the auction.<sup>45</sup>

Hughes and Viasat were the only commenters to support the use of census tracts over census block groups. Hughes claimed that the basis for its decision is the administrative challenges the Commission will face auctioning more census block groups.<sup>46</sup> However, use of census tracts is likely to directly benefit satellite providers, like Hughes, because it “may mean that only a satellite provider will be able to cover the entire area to serve all of the eligible locations.”<sup>47</sup> By contrast, providers of higher-performance services to bid are much more likely to find it cost prohibitive to bid for census tracts.<sup>48</sup> Not only would use of census tracts lessen participation, it would tend to cause the auction to favor lower performance providers, undermining the Commission’s budget clearing round approach.<sup>49</sup> In accordance with the nearly unanimous consensus of the commenters, the Commission should choose census block groups as the minimum bidding area for the RDOF auction.

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<sup>45</sup> Comments of ACA Connects at 8-9; Comments of AT&T at 2-3; Comments of NTCA at 3; Comments of SBI at 3; Comments of USTelecom at 6; Comments of WISPA at 4-5; Comments of WTA at 2.

<sup>46</sup> Comments of Hughes at 6.

<sup>47</sup> Comments of NCTA at 2.

<sup>48</sup> Comments of ACA Connects at 5.

<sup>49</sup> *Id.*

## V. CONCLUSION

For the foregoing reasons, the Commission should preserve RDOF auction integrity and maximize participation in the auction by utilizing its predictive judgment to decline to allow applicants using LEO technology to bid at higher performance tiers and to preclude fixed wireless providers from bidding at the Gigabit performance tier and to select census block groups as the minimum geographic bidding area.

Respectfully Submitted,



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